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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 4:19-cv-8246-YGR

14 JOHN VOTTO, Derivatively on behalf of
APPLE INC.,

Case No. 5:19-cv-08246-YGR
**ORDER GRANTING
JOINT STIPULATION AND
[PROPOSED] ORDER STAYING
ACTION**

15 Plaintiffs,

16 v.

17 TIMOTHY D. COOK, ARTHUR D.
LEVINSON, JAMES A. BELL, ALBERT
GORE, JR., SUSAN L. WAGNER, ROBERT
A. IGER, and LUCA MAESTRI,

20 Defendants,

21 -and-

22 APPLE INC., a California Corporation,

23 Nominal Defendant.

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JOINT STIPULATION AND [PROPOSED] ORDER
STAYING ACTION, CASE NO. 5:19-CV-08246-YGR

1 WHEREAS, on December 18, 2019, Plaintiff John Votto (“Plaintiff”) filed a stockholder
 2 derivative complaint (“Complaint”) on behalf of nominal defendant Apple Inc. (“Apple” or the
 3 “Company”) alleging breach of fiduciary duties, waste of corporate assets, unjust enrichment, and
 4 violations of law against certain of the Company’s officers and directors (collectively with Apple,
 5 “Defendants”) (Plaintiff and Defendants are collectively referred to herein as the “Parties”);

6 WHEREAS, undersigned counsel for Apple has agreed to accept service for Defendants
 7 and waive service of the summons;

8 WHEREAS, a consolidated securities fraud class action captioned *In re Apple Inc.*
 9 *Securities Litigation*, No. 4:19-cv-02033-YGR (N.D. Cal.) is currently pending in this District
 10 before the Honorable Yvonne Gonzalez Rogers (the “Securities Action”), and is factually related
 11 to this action;

12 WHEREAS, on January 14, 2020, the Court formally related this action to the Securities
 13 Action;

14 WHEREAS, the briefing on the defendants’ motion to dismiss in the Securities Action will
 15 conclude in February 2020 and a hearing will be held on March 3, 2020;

16 WHEREAS, three related shareholder derivative actions purportedly filed on behalf of
 17 Apple captioned *Zehrer v. Cook, et al.*, No. 19-cv-05153-YGR, *Bankhalter v. Cook, et al.*, No. 19-
 18 cv-05881-YGR, and *Fine v. Cook, et al.*, No. 19-cv-05863-YGR, are also currently pending in this
 19 District and arise out of the same facts and circumstances as this action and the Securities Action
 20 (the “Related Derivative Actions”);

21 WHEREAS, the Related Derivative Actions have been formally related to the Securities
 22 Action and have been temporarily stayed until March 2020, in deference to the Securities Action;

23 WHEREAS, the Parties to this action believe that events may unfold in the Securities Action
 24 that may promote the just and efficient case management of this action: therefore, the Parties agree
 25 that this action, too, should be temporarily stayed like the Related Derivative Actions;

26 NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the Parties,
 27 through their respective counsel of record and subject to Court approval, as follows:

28 1. This action, including all deadlines and hearings, is hereby temporarily stayed until

1 March 11, 2020.

2 2. Any Party may lift the stay by providing thirty (30) days' written notice to the other
3 Parties.

4 3. Within thirty (30) days of the expiration or lifting of the stay pursuant to paragraphs
5 1 or 2 hereof, the Parties shall meet and confer and submit to the Court a proposed case management
6 schedule.

7 4. Plaintiff may file amended complaints during the pendency of the stay, and the filing
8 of any such amended complaint shall not affect the pendency of the stay or trigger any obligation
9 by Defendants to respond while the stay is pending.

10 5. The composition of Apple's Board of Directors that will be considered in connection
11 with determining whether Plaintiff's complaint, amended or otherwise, has adequately pled that a
12 pre-litigation demand on the Company's Board of Directors would have been futile shall be the
13 composition of the Board of Directors as of December 18, 2019, the date this action was initiated.

14 6. This stay shall not preclude Plaintiff from pursuing, during the course of the stay,
15 any rights he may have to inspect the Company's books and records pursuant to California
16 Corporations Code section 1601 ("Section 1601"), nor shall it impact Apple's rights or defenses in
17 response to any demand pursuant to Section 1601.

18 7. By entering into this stipulation, the Parties do not waive any rights or defenses not
19 specifically addressed herein.

20 **IT IS SO STIPULATED.**

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1 Dated: January 15, 2020

ORRICK, HERRINGTON & SUTCLIFFE LLP

2 */s/ Alexander K. Talarides*

3 ALEXANDER K. TALARIDES

4 Attorneys for Defendants

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6 Dated: January 15, 2020

BRODSKY & SMITH LLP

7 */s/ Evan J. Smith*

8 EVAN J. SMITH

9 Attorneys for Plaintiffs

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12 **CIVIL L.R. 5-1 ATTESTATION**

13 Pursuant to Civil L.R. 5-1(i)(3), I, Alexander K. Talarides, am the ECF user whose ID and
14 password are being used to file this Joint Stipulation and [Proposed] Order Staying Action. In
15 compliance with General Order 45, X.B., I hereby attest that Evan J. Smith has concurred in this
16 filing.

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18 */s/ Alexander K. Talarides*

19 ALEXANDER K. TALARIDES

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22 PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

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25 DATED: _Hgdtwct{ "42."4242


26 THE HON. YVONNE GONZALEZ ROGERS
27 UNITED STATES DISTRICT JUDGE